

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ella Mintz	Team: Squad #1	CCRB Case #: 201807787	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/09/2018 5:30 AM	Location of Incident: [REDACTED]	Precinct: 18	18 Mo. SOL 3/9/2020	EO SOL 3/9/2020	
Date/Time CV Reported Sun, 09/09/2018 5:37 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/17/2018 11:16 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Jamella Abdulai	11252	948581	MTN PCT
2. POM Diamond Speller	18746	953435	MTN PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Diamond Speller	Force: Police Officer Diamond Speller used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
§ 87(2)(g), § 87(4-b) [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On September 9, 2018, Dr. § 87(2)(b) filed this complaint over the phone with IAB on behalf of § 87(2)(b). The case was received by the CCRB on September 17, 2018 under log #18-35957.

On September 9, 2018 at approximately 5:30AM, Police Officers Diamond Speller and Jamella Abdulai, both assigned to Midtown North Precinct, responded to a dispute at the McDonalds located at § 87(2)(b) in Manhattan. While in front of the McDonalds, PO Speller allegedly grabbed § 87(2)(b)'s arm and pulled him down to the ground (**Allegation A: Force:** § 87(2)(g) § 87(2)(b) was transported to § 87(2)(b). § 87(2)(b) was not arrested or summonsed as a result of this incident.

The investigation obtained video from McDonalds capturing some of § 87(2)(b)'s interactions with the officers inside the restaurant but it does not capture the allegation (Board Review 01). Body-worn camera footage was obtained from PO Abdulai and PO Speller (Board Reviews 02, 03). There is also footage capturing this incident, taken from a TARU camera located at 47th Street and 7th Avenue (Board Review 04).

Findings and Recommendations

Allegation A-Force: Police Officer Diamond Speller used physical force against § 87(2)(b)

Dr. § 87(2)(b) testified that while inside the McDonalds, he observed § 87(2)(b) standing by PO Speller and PO Abdulai (Board Review 05). Dr. § 87(2)(b) did not know § 87(2)(b) prior to encountering him during this incident. While inside the McDonalds, Dr. § 87(2)(b) overheard § 87(2)(b) have a dispute with the McDonalds' cashier about not being able to get his food. § 87(2)(b) was yelling but did not appear noticeably drunk or under the influence; § 87(2)(b) did not smell like alcohol and Dr. § 87(2)(b) did not notice any overt signs of intoxication but stated that it was possible that § 87(2)(b) was intoxicated. PO Abdulai and PO Speller repeatedly asked § 87(2)(b) to leave the location but he refused to do so. After a couple of minutes, § 87(2)(b) left the restaurant with the two officers. Dr. § 87(2)(b) left the restaurant as well. § 87(2)(b) continued to yell about his food outside. Approximately 15-30 seconds after exiting the McDonalds, PO Speller grabbed § 87(2)(b)'s arm and dragged him down to the ground so § 87(2)(b) landed face down on the concrete. Prior to being pulled down to the ground, § 87(2)(b) did not try to go back inside the McDonalds and did not make any physical movements toward the officers. Dr. § 87(2)(b) felt the force was excessive and called IAB to file this complaint.

§ 87(2)(b)'s name and date of birth was obtained from the AIDED report prepared by PO Abdulai (Board Review 06). Neither the AIDED report nor the two TRI reports prepared in connection with this incident included any contact information for § 87(2)(b). The pedigree information on the TRI reports state that § 87(2)(b) is 6'0" and 175 lbs (Board Review 07). The investigation was not able to establish contact with § 87(2)(b) after doing extensive database searches for anyone with that name and date of birth (Board Review 08). § 87(2)(b) speaks in an English accent and at one point, asked the officers to contact the British Consulate (Board Reviews 02, 03). The IAB log noted that § 87(2)(b) is from England (Board Review 18).

PO Speller's BWC partially captured this incident. At 5:29:36 in the timestamp (0:00 in the video), PO Speller has two hands on § 87(2)(b)'s arm and appears to pull him down to the ground (Board Review 03). This occurred in less than two seconds. (As it happens so quickly, a slowed down video is available to review in Board Review 09.) § 87(2)(b) landed on his side and immediately began to scream. § 87(2)(b) made repeated requests for an ambulance, saying that his arm is broken.

PO Abdulai's BWC also partially captures this incident (Board Review 02). At the 5:29:34 timestamp, PO Speller is shown standing behind § 87(2)(b) at the door to the McDonalds. At the 5:29:37 mark, § 87(2)(b)'s hand is no longer on the door and at the 5:29:38 mark, § 87(2)(b) is already on the ground.

The TARU footage captured another angle of the footage (The full video can be found in Board Review 04, a zoomed in portion of the incident can be found in Board Review 10). At the 5:29:00 mark, PO Abdulai and § 87(2)(b) exit the McDonalds. At the 5:29:11 mark, PO Speller exits the McDonalds. At the 5:29:31 timestamp in the video, § 87(2)(b) has one hand on the McDonalds' door handle and the door is open. PO Speller then appears to pull § 87(2)(b) back and down to the ground by grabbing the arm that is not on the door handle. § 87(2)(b) landed nearer to the street side of the sidewalk.

PO Speller and PO Abdulai testified that they responded to a harassment job at the McDonalds (Board Reviews 11, 12). The officers corroborated Dr. § 87(2)(b)'s testimony in that § 87(2)(b) was yelling inside the McDonalds and that, on the request of the McDonalds staff, they asked him to leave the location multiple times before he complied. The officers testified that they believed § 87(2)(b) was intoxicated due to his irate behavior, his unsteadiness on his feet, and because his breath smelled like alcohol. Both officers stated that they had made the decision to remove § 87(2)(b) to the hospital due to his severe intoxication and that once outside the McDonalds, § 87(2)(b) tried to go back inside the restaurant. PO Speller and PO Abdulai told § 87(2)(b) that he could be arrested for criminal trespassing if he were to re-enter.

PO Speller, who according to the pedigree information he provided during his CCRB interview, is § 87(2)(b) and weighs § 87(2)(b). PO Speller stated that after he told § 87(2)(b) he could be arrested if he went back inside the McDonalds, § 87(2)(b) put his hand on the door handle and proceeded to pull it open. However, before § 87(2)(b) could go in the McDonalds, PO Speller blocked him by standing in front of the open door. PO Speller again explained to § 87(2)(b) that if he went inside the McDonalds, he would be arrested. At one point in the incident, although PO Speller could not recall when, § 87(2)(b) fell to the ground. PO Speller did not know how § 87(2)(b) fell to the ground but stated that § 87(2)(b) did not trip on anything. § 87(2)(b) fell to the ground without any action on PO Speller's part. PO Speller stated that § 87(2)(b) "appeared to throw himself on the ground." PO Speller did not pull § 87(2)(b) down to the ground at any point. PO Speller never touched § 87(2)(b)'s arm when § 87(2)(b)'s arm was on the door. PO Speller did not know how § 87(2)(b) landed on the ground and could not say if he landed face up or face down. § 87(2)(b) never requested to go to the hospital. PO Speller did not recall § 87(2)(b) complaining about any injuries.

After watching the aforementioned BWC and TARU footage of the incident, PO Speller declined to add or amend anything about his testimony. PO Speller was again asked if he used any physical force against § 87(2)(b). PO Speller responded, “If that’s what you call physical force.” When asked if he forcibly took § 87(2)(b) to the ground, PO Speller responded, “I don’t believe so.” PO Speller reiterated his belief that § 87(2)(b) fell to the ground. A TRI report which identified the reporting officer as PO Speller, was presented to PO Speller. PO Speller stated that he did not remember filling out a TRI report but that it was possible he did. PO Speller was directed to the section where it states that a forcible take down was employed. PO Speller stated that he did not recall filling this out and that he believes that he did not use force. PO Speller was also pointed to the section where it stated that § 87(2)(b) resisted. PO Speller did not recall § 87(2)(b) resisting at any point.

PO Abdulai stated that when § 87(2)(b) opened the door to McDonalds, PO Speller put his hand on § 87(2)(b)’s forearm and pulled his hands off the door. § 87(2)(b) was gripping the door very tightly, which made it difficult for PO Speller to remove his hands. As § 87(2)(b) was drunk at the time, he tripped on his own feet and fell to the ground. PO Speller did not pull § 87(2)(b) toward the ground. PO Abdulai stated that § 87(2)(b) falling to the ground was accidental. PO Abdulai filled out a TRI report stating that a forcible takedown was employed due to unintentional actions by PO Speller. Once on the ground, § 87(2)(b) screamed, “My arm!” repeatedly but did not make any specific accusations against PO Speller.

§ 87(2)(b), § 87(2)(g)

Patrol Guide Procedure 221-01 states that any use of force must be reasonable under the circumstances and that in determining whether the use of force is reasonable, members of service should consider the following: the nature and severity of the crime, the actions taken by the subject, whether the subject is actively resisting custody, and the size, age, and condition of the subject in comparison to the MOS (Board Review 13).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first complaint in which § 87(2)(b) and § 87(2)(b) have been parties.
- Police Officer Diamond Speller has been a member of service for six years and this is the second complaint in which he is a subject officer.
 - 201810694, in which PO Speller is the subject of two allegations, is scheduled to be reviewed during Panel 5B-2019.

Mediation, Criminal, and Civil Histories

- § 87(2)(b) declined to mediate this complaint.
- As of January 3, 2019, the New York City Office of the Comptroller has no record of a notice of claim filed in regards to this incident (Board Review 15).
- According to the Office of the Court Administration (OCA), neither § 87(2)(b) nor § 87(2)(b) have any known criminal convictions in New York (Board Review 16, 17).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer:

Signature

Print Title & Name

Date